

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 524/2013

Vitthal Tulshiram Chachere,
Aged about 52 years, Occ. Service,
R/o Yavatmal, District Yavatmal.

Applicants.

Versus

- 1) The State of Maharashtra,
through Secretary, Department of Irrigation,
Mantralaya, Mumbai-400 032.
- 2) Superintending Engineer,
Upper Wardha Project Board,
Amravati.
- 3) Deputy Executive Engineer,
Upper Wardha Canal Division No.1,
Amravati.
- 4) Sub Divisional Engineer,
Upper Wardha Canal, Sub Division No.5,
Dhamangaon.
- 5) Superintending Engineer,
Yavatmal Irrigation Circle,
Yavatmal.

Respondents

Shri Sunil Bhuyar, Advocate for the applicant.

Shri M.I. Khan, Id. P.O. for respondent no.1.

Shri P.V. Thakre, Id. counsel for R-2 to 5.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGEMENT

(Delivered on this 10th day of April,2017)

Heard Shri Sunil Bhuyar, Id. counsel for the applicant, Shri M.I. Khan, Id. P.O. for respondent no.1 and Shri P.V. Thakre, Id. counsel for respondent nos. 2 to 5.

2. The learned counsel for the applicant supplied the copy of the affidavit dated 18/02/2017 to the learned counsel for respondent nos. 2 to 5. In this O.A. the applicant has requested that the order dated 20/03/2013 (A-8,P-28) issued by respondent no.3, the Deputy Executive Engineer, Upper Wardha Canal Division No.1, Amravati wherein the Executive Engineer, Bembala Project Division, Yavatmal has been directed to recover the amount of Rs.75,082/- from the applicant be quashed and set aside. The amount was to be recovered in the instalment of Rs. 5000/- p.m. from the salary of the applicant. It is stated that the said amount has already been recovered from the applicant.

3. The learned counsel for the applicant submits that the order of recovery has been issued without following due procedure of law and without initiating any departmental enquiry.

4. It seems that before passing of impugned order dated 20/03/2013 a show cause notice was issued on 23/07/2010 (A-1,

P-12). The applicant has replied the said show cause notice. The copies of the reply (A-3,P-16 & A-4,P-19) are placed on record. The applicant tried to justify that he has not misappropriated articles and that the same are either properly utilised or returned to some Peons to the competent authority. However instead of accepting the reply the respondents' authorities have passed the order of recovery which is impugned in this case. The respondent tried to justify the recovery and submitted that the applicant in fact admitted the misappropriation.

5. The applicant has filed on record affidavit on 18/02/2017 and submitted that the articles were handed over to the Contractor as per the instruction of respondents through the Peon. He has also placed on record the written explanation dated 23/01/2013 and 25/08/2011 along with acknowledgement receipts. The said correspondence has been placed on record at P.B. of page nos. 58 to 65 (both inclusive).

6. From the aforesaid correspondence and the affidavit placed on record it seems that the applicant did not accept the allegations but tried to give explanation however without accepting the explanation the order of recovery was passed. In my opinion the principles of natural justice have not been followed and if the respondents were not satisfied with the explanation given by the

applicant, they should have initiated regular departmental enquiry against the applicant.

7. In view thereof I pass the following order.

ORDER

The impugned order of recovery dated 20/03/2013 is quashed and set aside. The respondents however will be at liberty to initiate regular departmental enquiry if they are not satisfied with the explanation given by the applicant. In view of the facts that the amount has already been recovered from the applicant, the respondents are directed to initiate and complete the inquiry in all respect within six months from the date of this order, failing which the amount recovered shall be refunded to the applicant. No order as to costs.

(J.D. Kulkarni)
Vice-Chairman (J).

dnk.